

REMARKS:

Claims 39-74 are currently pending in the application.

Claims 1-38 have been previously canceled, without *prejudice*.

Claims 39, 43-44, 46-47, 51, 55-56, 58-59, 63, 67-68, and 70-71 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,996,589 to Jayaram et al. (hereinafter “*Jayaram*”).

Claims 48-50, 60-62, and 72-74 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*.

Claims 45, 57, and 69 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of U.S. Patent No. 6,996,589 to Jennyc et al. (hereinafter “*Jennyc*”).

Claims 40, 52, and 64 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of U.S. Publication No. 2002/0046301 to Shannon et al. (hereinafter “*Shannon*”).

Claims 41-42, 53-54, and 65-66 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of U.S. Patent No. 6,381,709 to Casagrande et al. (hereinafter “*Casagrande*”).

Applicants respectfully submit that all of Applicants arguments and amendments are without prejudice or disclaimer. In addition, Applicants have merely discussed example distinctions from the cited prior art. Other distinctions may exist, and as such, Applicants reserve the right to discuss these additional distinctions in a future Response or on Appeal, if appropriate. Applicants further respectfully submit that by not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are considered sufficient to overcome the Examiner's rejections. In addition, Applicants reserve the right to pursue broader claims in this Application or through a continuation patent application. No new matter has been added.

I. Rejections Under 35 U.S.C. § 102(e)

Claims 1, 4-6, 8, 9, 13, 16-18, 20, 21, 25, 28-30, 32, 33, 37, and 38 stand rejected under 35 U.S.C. § 102(e) over *Jayaram*.

Anticipation is a question of fact. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987). There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991).

Applicants respectfully submit that *Jayaram* fails to disclose at least the following limitation of Claim 39, as amended:

one or more ***relational interfaces***, each relational interface coupled with a corresponding relational data store and exposed within the data integration server during a bulk data transfer, wherein the data integration server reads data entities directly from and writes data entities directly to the one or more relational data stores during the bulk data transfer without using the plurality of programmatic source interfaces or the plurality of programmatic target interfaces.

Applicants thank the Examiner for noting that “*Jayaram* does not teach ***relational interfaces***.” (17 September 2009 Final Office Action, page 6). Thus, Applicants respectfully submit that the Examiner’s rejections under 35 U.S.C. § 102 may not properly be maintained as *Jayaram* fails to identically disclose each and every element of Applicants’ claims. Thus, Applicants respectfully request that the rejections under 35 U.S.C. § 102 be withdrawn.

II. Rejections Under 35 U.S.C. § 103(a)

Claims 48-50, 60-62, and 72-74 stand rejected under 35 U.S.C. § 103(a) over *Jayaram*. Claims 45, 57, and 69 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of U.S. Patent *Jennyc*. Claims 40, 52, and 64 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Shannon*. Claims 41-42, 53-54, and 65-66 stand rejected under 35 U.S.C. § 103(a) over *Jayaram* in view of *Casagrande*.

Applicants respectfully submit that Claims 40-42, 45, 48, 50, 52-54, 57, 60, 62, 64-66, 69, 72, and 74 in their current form contain unique and novel limitations that are not disclosed by *Jayaram*, *Jennyc*, *Shannon*, and *Casagrande*, either individually or in combination. Thus, Applicants respectfully traverse the Examiner’s obvious rejection under 35 U.S.C. § 103(a) over the

proposed combination of *Jayaram*, *Jennyc*, *Shannon*, and *Casagrande* either individually or in combination.

The Examiner states the following in the Final Office Action:

Jayaram does not teach relational interfaces. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include relational interface as alternative of the plurality of programmatic source interfaces and the plurality of programmatic target interfaces during the bulk data transfer without using the plurality of programmatic source interfaces or the plurality of programmatic target interfaces because by doing so it would allow backup interface for performing the functions of the programmatic interfaces in case of failure in the programmatic interface, thus providing alternative interface without using the programmatic interface.

(17 September 2009 Final Office Action, page 6). Applicants thank the Examiner for noting that *Jayaram* fails to disclose relational interfaces, however, Applicants respectfully disagree with the Examiner's assertion that it would have been obvious to include a relational interface as a backup interface in case of failure of the programmatic interfaces. Applicants further respectfully submit that there is no teaching or suggestion in any of the references cited by the Examiner to render obvious Applicants' independent Claims 39, 51, and 63 which recite the limitation of "one or more *relational interfaces used as alternatives* to the plurality of programmatic source interfaces and the plurality of programmatic target interfaces *to reduce complexity of the bulk data transfer.*"

As discussed above, each of Claims 39, 51 and 63 are considered patentably distinguishable over *Jayaram* for at least the reason that *Jayaram* fails to disclose the following limitation:

one or more *relational interfaces used as alternatives to the plurality of programmatic source interfaces and the plurality of programmatic target interfaces to reduce complexity of the bulk data transfer*, each relational interface coupled with a corresponding relational data store and exposed within the data integration server during a bulk data transfer to enable the data integration server to read data entities directly from and write data entities directly to the one or more relational data stores during the bulk data transfer without using the plurality of programmatic source interfaces or the plurality of programmatic target interfaces

Thus, dependent Claims 40-42, 45, 48, 50, 52-54, 57, 60, 62, 64-66, 69, 72, and 74, which depend therefrom, are also considered to be in condition for allowance for at least the reason of depending from an allowable claim. Accordingly, Applicants respectfully request that the

Examiner's rejections to Claims 40–42, 45, 48, 50, 52–54, 57, 60, 62, 64–66, 69, 72, and 74 under 35 U.S.C. § 103(a) over the proposed combination of *Jayaram*, *Jennyc*, *Shannon*, and *Casagrande* be withdrawn.

A. Office Action Fails to Properly Establish a *Prima Facie* case of Obviousness over the Proposed *Jayaram-Jennyc-Shannon-Casagrande* Combination According to the UPSTO Examination Guidelines

Applicants respectfully submit that the Office Action fails to properly establish a *prima facie* case of obviousness based on the proposed combination of *Jayaram*, *Jennyc*, *Shannon*, and *Casagrande*, either individually or in combination, and in particular, the Office Action fails to establish a *prima facie* case of obviousness based on the “Examination Guidelines for Determining Obviousness Under 35 U.S.C. § 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*” (hereinafter the “Guidelines”).

As reiterated by the Supreme Court in *KSR International Co. v. Teleflex Inc.* (*KSR*), the framework for the objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966)). Obviousness is a question of law based on underlying factual inquiries. These factual inquiries enunciated by the Court are as follows:

- (1) Determining the scope and content of the prior art;
- (2) Ascertaining the differences between the claimed invention and the prior art; and
- (3) Resolving the level of ordinary skill in the pertinent art.

(Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). Objective evidence relevant to the issue of obviousness must be evaluated by Office personnel. (383 U.S. 17–18, 148 USPQ 467 (1966)). As stated by the Supreme Court in *KSR*, “While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.” (*KSR*, 550 U.S. at __, 82 USPQ2d at 1391).

However, it is important to note that the Guidelines require that Office personnel “*ensure that the written record includes findings of fact* concerning the state of the art and the teachings of the references applied. (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). In addition, the Guidelines

remind Office personnel that the “*factual findings made by Office personnel are the necessary underpinnings to establish obviousness.*” (*id.*). Further, “*Office personnel must provide an explanation to support an obviousness rejection* under 35 U.S.C. § 103. (*id.*). In fact, “35 U.S.C. 132 requires that the applicant be notified of the reasons for the rejection of the claim so that he or she can decide how best to proceed” and “clearly setting forth findings of fact and the rationale(s) to support a rejection in an Office action leads to the prompt resolution of issues pertinent to patentability.” (*id.*).

With respect to the subject application, the Office Action has not shown the *factual findings necessary to establish obviousness* or even *an explanation to support the obviousness rejection* based on the proposed combination of *Jayaram, Jennyc, Shannon, and Casagrande*. The Office Action merely states that it would have been obvious to one having ordinary skill in the art at the time of the invention was made to “include conversion of data only if the first and second formats are different,” “include relational interface as alternative of the plurality of programmatic source interfaces and the plurality of programmatic target interfaces during the bulk data transfer without using the plurality of programmatic source interfaces or the plurality of programmatic target interfaces,” “use known technique of release of interface of Jennyc's system,” “use known technique of JAVA interface of Shannon's system,” “use known technique of FTP interface of transferring data in Casagrande's system,” and “include sending the source data to any client.” (17 September 2009 Final Office Action, Pages 6-10). Applicant respectfully disagrees and respectfully submits that the Examiner's conclusory statement is not sufficient to establish the *factual findings necessary to establish obviousness* and is not a sufficient *explanation to support the obviousness rejection* based on the proposed combination of *Jayaram, Jennyc, Shannon, and Casagrande*.

The Guidelines further provide guidance to Office personnel in “determining the scope and content of the prior art” such as, for example, “Office personnel must first obtain a thorough understanding of the invention disclosed and claimed in the application.” (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). The scope of the claimed invention must be clearly determined by giving the claims the “broadest reasonable interpretation consistent with the specification.” (See Phillips v. AWH Corp., 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) and MPEP § 2111.). In addition, the Guidelines state that any “*obviousness rejection should include*, either explicitly or

implicitly in view of the prior art applied, *an indication of the level of ordinary skill.*” (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). With respect to the subject Application, the Office Action has not provided *an indication of the level of ordinary skill.*

The Guidelines still further provide that once the *Graham* factual inquiries are resolved, Office personnel must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. (*Id.*). For example, the Guidelines state that *Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.* (*Id.*). In addition, the Guidelines state that the proper analysis is *whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts.* (*Id.* and See 35 U.S.C. § 103(a)).

With respect to the subject Application, the Office Action has not expressly resolved any of the *Graham* factual inquiries to determine whether Applicants’ invention would have been obvious to one of ordinary skill in the art. In addition, the Office Action fails to *explain why the difference(s) between the proposed combination of Jayaram, Jennyc, Shannon, Casagrande, and Applicants’ claimed invention would have been obvious to one of ordinary skill in the art.* The Office Action merely states that “in order to avoid inefficient process of conversion between data stores of the same format,” “because by doing so it would allow backup interface for performing the functions of the programmatic interfaces in case of failure in the programmatic interface, thus providing alternative interface without using the programmatic interface,” “to improve similar method of interfacing systems for data transfer in Jayaram’s system in the same way,” and “because by doing so it would allow data transfer between any source to any client.” (17 September 2009 Final Office Action, Pages 6-10). Applicants respectfully disagree and further respectfully requests clarification as to how this statement *explains why the difference(s) between the proposed combination Jayaram, Jennyc, Shannon, Casagrande, and Applicants’ claimed invention would have been obvious to one of ordinary skill in the art.* Applicant further respectfully submits that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

The Guidelines yet further state that the “key to supporting any rejection under 35 U.S.C. 103 is the *clear articulation of the reason(s) why the claimed invention would have been obvious.*” (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). In fact, the Supreme Court in *KSR* noted that “*the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.*” (*id.*). The Court quoting *In re Kahn* (441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)), stated that “[R]ejections on *obviousness cannot be sustained by mere conclusory statements*; instead, there *must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*” (*KSR*, 550 U.S. at __, 82 USPQ2d at 1396). The Guidelines provide the following seven rationales:

- (A) Combining prior art elements according to known methods to yield predictable results;
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
- (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Applicant respectfully submits that the *Office Action fails to provide any articulation, let alone, clear articulation of the reasons why Applicants' claimed invention would have been obvious.* For example, the *Examiner has not adequately supported the selection and combination of Jayaram, Jennyc, Shannon, and Casagrande to render obvious Applicants' claimed invention.* The Examiner's unsupported conclusory statements detailed above *do not adequately provide clear articulation of the reasons why Applicants' claimed invention would have been obvious.* In addition, the Examiner's unsupported conclusory statements fail to meet any of the Guidelines rationales to render obvious Applicants' claimed invention.

Thus, if the Examiner continues to maintain the obvious rejection based on the proposed combination of *Jayaram, Jennyc, Shannon, and Casagrande*, Applicants respectfully request that the Examiner provide proper support for the obviousness rejection under 35 U.S.C. § 103 as necessitated by the Guidelines, including an explicit analysis of the rationale relied upon by the Examiner.

III. Applicants' Claims are Patentable over Jayaram, Jennyc, Shannon, and Casagrande

Claims 51 and 63 are considered patentably distinguishable over *Jayaram* for at least the reasons discussed above in connection with Claim 39.

Furthermore, with respect to dependent Claims 40-50, 52-62, and 64-74: Claims 40-50 depend from Claim 39; Claims 52-62 depend from Claim 51; and Claims 64-74 depend from Claim 63 and are also considered patentably distinguishable over *Jayaram Jennyc, Shannon, and Casagrande*, whether taken individually or in combination. Thus, dependent Claims 40-50, 52-62, and 64-74 are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

Thus, for at least the reasons set forth herein, Applicants respectfully submit that Claims 39-74 are not anticipated nor rendered obvious by the cited references. Applicants further respectfully submit that Claims 39-74 are in condition for allowance. Thus, Applicants respectfully request that Claims 39-74 be allowed.

CONCLUSION:

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Director to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

17 November 2009

Date

/Steven J. Laureanti/signed

Steven J. Laureanti, Registration No. 50,274

BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy., Ste. 101
Tempe AZ, 85281
214.636.0799 (mobile)
480.830.2700 (office)
480.830.2717 (fax)
steven@boothudall.com

CUSTOMER NO. 53184